

DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE
CITY OF SPRINGFIELD, a municipal corporation of the
State of Oregon, and GATEWAY MALL LIMITED PARTNERSHIP,
a South Dakota partnership, for the Development of
a Regional Shopping Mall on a Site Within the
Gateway Area Within the City of Springfield

WHEREAS, Gateway Mall Limited Partnership, hereinafter Developer, an affiliate corporation of General Growth Companies, Inc., plans to develop a regional shopping mall on a site within the Gateway area of the City of Springfield, Oregon; and,

WHEREAS, it is anticipated that such a project would be valued in the range of \$50 - \$70 million at full development, which is the largest nongovernmental Springfield project in the past 20 years, and the largest in the Springfield-Eugene metropolitan area in the past 20 years; and,

WHEREAS, the project as proposed is designed to accomodate at a minimum the development of 715,000 square feet of retail space, including up to five major stores totalling 445,000 square feet, retail mall merchants totalling 235,000 square feet, and a multi-screen theatre totalling 35,000 square feet; and,

WHEREAS, it is anticipated that the development of the regional shopping mall would employ up to 1,000 employees from the local labor pool during the construction phase; and,

WHEREAS, it is anticipated that the regional shopping mall would permanently employ between 1,200-1,500 employees from the local labor pool; and,

WHEREAS, a regional shopping mall would further enhance the Gateway area of Springfield, and specifically the McKenzie-Gateway Special Light Industrial Site, and potentially increase the likelihood of development of this outstanding industrial site; and,

WHEREAS, such a regional shopping mall would:

- (a) provide a wider choice of products locally,
- (b) retain more consumers in the Springfield-Eugene community,
- (c) provide more competition in the local market, hopefully resulting in lower prices to consumers,
- (d) increase shopping-related tourism,
- (e) create new opportunities for development and investments,
- (f) result in no substantial relocation of businesses to the regional shopping mall due to anticipated higher rent levels in the regional shopping mall, and
- (g) increase the retail market in the Springfield-Eugene community; and,

WHEREAS, Developer, through its affiliate General Growth Companies, Inc., is the 10th largest retail developer in the United States having completed 46 malls to date, of which they retain management or ownership of 36; and,

WHEREAS, BAY SHORE MALL and BELLIS FAIR LIMITED PARTNERSHIP (affiliates of Developer) are completing development of a 650,000 square foot regional shopping mall in Eureka, California and construction of a 950,000 square foot regional shopping mall in Bellingham, Washington; and,

WHEREAS, Developer and City acknowledge that the proposed development of the regional shopping mall provides for no City subsidies of the development in the form of grants, loans, write-downs, fee reductions or waivers, other than as expressly provided for herein; and,

WHEREAS, City has agreed to enter into this Disposition and Development Agreement (Agreement) with Developer based on Developer's experience, management depth, development team, demonstrated commitment to high quality development, project Pro Forma Financial Statement, conceptual design proposal, corporate financial strength, and responsiveness to City's concerns; and,

WHEREAS, the City has found that the development of the land pursuant to this Agreement, and the fulfillment generally of this Agreement and the intentions set forth herein, are in the vital and best interest of the City and the health, safety, morals and welfare of its residents, and in accordance with the public purposes and provisions of any applicable municipal, State and Federal laws or requirements; and,

NOW, THEREFORE, in consideration of the foregoing recitals, it is hereby agreed between the parties as follows:

1. Purpose: The purpose of this Agreement is to set forth the understanding of the parties regarding the development of a regional shopping mall by Developer on a site more particularly described and set forth in Exhibit A attached hereto and incorporated herein by reference within the Gateway area of the City of Springfield.

This Agreement together with the "Site Plan Development Agreement" (attached for informational purposes as Attachment 1) and the "Waiver, Consent to Assessment, Agreement to Pay Certain Improvement Costs, and Agreement for Provision of Surety" (attached for informational purposes as Attachment 2) constitutes the full extent of the understanding of the parties regarding the site development into a regional shopping mall. The initial agreement between the parties known as a Memorandum of Understanding is terminated effective the date of this Agreement.

In the event of any conflict between this Agreement, the Site Plan Development Agreement, and the Waiver, Consent to Assessment, Agreement to Pay Certain Improvement Costs, and Agreement for Provision of Surety, those requirements which are most specific and which are the most stringent when imposed upon the Developer shall be applicable.

2. Goals of the Development of the Regional Shopping Mall:

- (a) The City and Developer agree that the development of a regional shopping mall is of common interest and benefit to the City and Developer.
- (b) The City desires to have the property developed as a regional shopping mall for the following reasons:
 - (1) Development of the area as a regional shopping mall realizes the City's goals to:
 - (a) Improve the City's economy and economic base.
 - (b) Enhance and strengthen community spirit and pride.
 - (c) Accommodate Springfield's future development.
 - (d) Broaden the retail base of the Springfield-Eugene Metropolitan area.
 - (e) Beautify and enhance the Gateway area of the City.
 - (2) The proposed development provides the City with an increase in the true cash value of real property over which to spread ad valorem taxes imposed by local taxing entities.
 - (3) The development will include high quality commercial land uses which are compatible with the City's Comprehensive Plan, Zoning, and Development Code.
 - (4) The payroll generated by the development will create additional retail sales for Springfield merchants.
 - (5) The proposed comprehensive planned development on this site is the most desirable and effective method of integrating existing public facilities with identified facility needs for the Gateway area.

- (6) The development will provide employment to the local work force.
- (c) Developer desires to have the property developed as the regional shopping mall for the following reasons:
 - (1) The regional shopping community lacks the retail development commonly found in other comparable metropolitan markets;
 - (2) The project has received considerable interest from retail stores;
 - (3) The project is consistent with internal guidelines and margins established by Developer and its affiliates for profitable developments.

3. Mutual Good Faith and Best Efforts: City and Developer both understand that the development of a regional shopping mall is a process which will require the mutual best efforts of both parties. Both parties pledge their good faith and best efforts to accomplish the purposes of this Agreement.

4. Description of Shopping Mall: The regional shopping mall will be generally developed as follows:

- (a) Developer shall develop on the site more particularly described and set forth in Exhibit A attached hereto and incorporated herein by reference a regional shopping mall similar in scale, quality and character of its projects in other jurisdictions, including Eureka, California and Bellingham, Washington as conceptually illustrated in Exhibit B attached hereto and incorporated herein by reference. Special and equal attention will be provided to the development's appearance from Interstate-5, Harlow Road and Gateway Street. Additionally, Developer will comply with all requirements of the Site Plan Development Agreement.

The Developer represents its purchase of the land is for development and not speculation in land holding. Developer further represents it has not (except as may be consistent with the development of this shopping mall) entered into any agreement to sell, assign, convey, lease, transfer or otherwise dispose of all or any part of the land or improvements or interest therein that is contrary to the terms of this Agreement. The Developer acknowledges that, due to the importance of the development of the land to the general welfare of the community, the qualifications and identity of the

Developer, owner, and operator are of particular concern to the community and the City. The Developer further acknowledges it is because of such qualifications that the City is entering into this Agreement with the Developer.

- (b) The regional shopping mall shall be a minimum of 715,000 square feet at full development, including up to five major tenant stores totalling not less than 445,000 square feet, gross leasable area. Major tenant stores shall be designed and constructed as follows:
 - (1) Phase I. A general merchandise retailer operating a store containing 115,000 square feet gross leasable area or more, of which not less than 75% shall be devoted to sales area. A general merchandise retailer operating a store containing 110,000 square feet gross leasable area or more, of which not less than 75% shall be devoted to sales area. A general merchandise retailer operating a store containing 50,000 square feet gross leasable area or more, of which not less than 75% shall be devoted to sales area. It is specifically understood that discount warehouse stores shall not meet this requirement as a major tenant store. In addition to the major tenant stores as described above, the mall shall consist of 235,000 square feet or more of mall retail store space, and a multi-screen theatre of 35,000 square feet.
 - (2) Phase II. Two general merchandise retailers operating stores which each contain 85,000 square feet gross leasable area or more, of which not less than 75% shall be devoted to sales area. It is specifically understood that discount warehouse stores shall not meet this requirement as a major tenant store.
- (c) Construction of accompanying parking in conformance with Site Plan Development Agreement.
- (d) Placement and maintenance of landscaping in accordance with Site Plan Development Agreement.
- (e) Developer shall provide some mall space or feature emphasizing and recognizing Springfield, Oregon. This may be accomplished through a Community Room, and information kiosk or significant artistic feature. The specific space or feature will promote Springfield and other areawide activities and will be mutually acceptable to City and Developer.

5. Keep City Informed: To extent permitted by competitive considerations of securing tenants, mall Developer will keep City informed in a timely manner of all substantial and material project and timing changes, tenant decisions, financing decisions, etc. Upon signature of this Agreement and until construction and improvements have been completed in the project, the work of the Developer shall be subject to access at all reasonable times for inspection by representatives of the City of Springfield.

6. Phasing of Development: The development will be generally phased as follows:

- (a) Phase I. Effective September 1, 1988, the Developer shall seek approvals for and complete construction of the three major tenant stores [as described in paragraph 4(b)(1)(Phase I)] totalling not less than 275,000 square feet and mall retail store space totalling not less than 235,000 square feet, and a multi-screen theatre of 35,000 square feet within two and one-half years inclusive of any time periods required for City processing of any approvals such as site plan approval, building permit approval, etc

Developer shall cause its architect to certify to the City and the City Building Official shall verify the completion and readiness for occupancy of all improvements constructed in Phase I. Such certifications shall include the square footage of each major department store and the square footage of all other improvements constructed in Phase I.

If Developer fails to complete construction prior to expiration of the two and one-half year time period, or, if Developer defaults and does not cure such default within the time provided in Paragraph 23, then, the Developer shall be responsible for all costs associated with the project including the construction, financing, legal, technical, and administrative costs as more specifically set forth in the "Waiver, Consent to Assessment, Agreement to Pay Certain Improvement Costs, and Agreement for Provision of Surety" including the right of the City to immediately draw to the fullest extent upon the surety provided under the Waiver, Consent to Assessment, Agreement to Pay Certain Improvement Costs, and Agreement for Provision of Surety.

- (b) Phase II. As determined by Developer.

7. Public Improvements:

- (a) Upon the Developer guaranteeing three commitments from major tenants, totalling not less than 275,000 square feet, execution of the "Site Plan Development Agreement," and execution of the "Waiver, Consent to

Assessment, Agreement to Pay Certain Improvement Costs, and Agreement for Provision of Surety" and provision of the specified required surety, the City of Springfield will commit to the construction of those public improvements more particularly set forth in Exhibit C attached hereto and incorporated herein by reference. The cost for such public improvements shall be apportioned as set forth in Paragraph 8. Anything herein to the contrary notwithstanding, the City agrees it will not cause any phase of the public improvements to be constructed until:

- (1) The City has notified the Developer in writing of the particular phase of work to be commenced and the contract price of such work;
 - (2) Developer has notified the City in writing that Developer consents to the commencement of the particular phase of work.
- (b) If Developer does not consent to commencement of work within 30 days of City's notification, the following procedure shall apply:
- (1) Developer's failure to consent shall be deemed a default under Paragraph 23 of this Agreement; and
 - (2) If the consent is not provided within ninety (90) days of City's notification, Developer shall reimburse City all costs the City has incurred, arising out of or associated with, the development of the regional shopping mall proposal, not to exceed \$200,000; and this Agreement shall terminate and be of no further force and effect.
- (c) Except where specifically modified or excepted by the Site Plan Development Agreement, the Planning Director, or Planning Commission, all public improvements must be designed and constructed in accordance with City of Springfield standard construction specifications.
- (d) The City shall have the responsibility to inspect and observe the construction of all such public improvements.
- (e) The Developer is solely responsible for provision of all utilities; i.e., water, electricity, gas, telephone, which may be necessary for the regional

shopping mall, including all costs, if any, of fees and permits imposed as a condition of development. City will assist in any coordination necessary. All utilities shall be underground.

- (f) It is understood that development of this regional shopping mall will require Developer to share in financing costs of certain public improvements as set forth in Exhibit C. City wishes to make it clear that further public improvements may occur adjacent to and in the general vicinity of the regional shopping mall which may also benefit the development and property, and Developer may also be required to share in the costs of such improvements in the future. This apportionment of Developer's share will be based on the Developer's use of, and benefit derived from, such public improvements. Such apportionment shall be made in accordance with the City's ordinances and policies. The Developer's apportionment shall be determined by the City in the same manner and using the same standards and policies as applicable to other property owners within the proposed assessment. Developer's successors, heirs and assigns shall not remonstrate against such further public improvements.

8. Financing of Public Improvements: City agrees to commit to those public improvements set forth in Exhibit C attached hereto and incorporated herein by reference. Developer agrees to pay the first \$1,000,000 of these costs as Developer's share, by accepting a local improvement district assessment amortized over ten years. In addition, Developer also agrees to pay those costs more particularly described and set forth in the Waiver, Consent to Assessment, Agreement to Pay Certain Improvement Costs and Agreement for Provision of Surety. Such sums shall also constitute the maximum amount that the City may recover under any letter of credit or surety delivered under this Agreement or under the Waiver, Consent to Assessment, Agreement to Pay Certain Improvement Costs and Agreement for Provision of Surety. Anything herein to the contrary notwithstanding, the Developer's maximum financial exposure to the City in the event Developer does not consent to commencement of all phases of work required to complete the public improvements referred to in Paragraph 7 of this Agreement shall be as set forth in Paragraph 7(b)(1) & (2).

9. Applicable Development Fees:

- (a) In addition to the Developer's assumption of the financing cost specified in Paragraph 8, Developer shall pay to City all required System Development Charges and other additional costs, fees, licenses, and expenses set forth in Exhibit D, attached hereto and incorporated herein by reference when due.

- (b) If Developer wishes to expedite the construction approval process, Developer may request that City hire additional personnel to work exclusively on the regional shopping mall development. Developer agrees to reimburse City for all such employment costs. Such cost to be in addition to costs described in subparagraph (a) above.

10. Finance Statement: Developer shall provide the City a Pro Forma Finance Statement which shall include all mall tenants, including major tenants; and any and all other site development. To the full extent permitted by the Oregon Public Records Act, City will maintain the confidentiality of such Statement.

11. Police Protection: The City will provide such police protection to the property as is reasonably necessary for the property given the stage of development on the property. City and Developer agree that Developer may employ private security forces to augment City Police forces.

12. Fire Protection: The City will provide such fire protection to the property as is reasonably necessary for the property given the state of development on the property. City and Developer agree that Developer may employ private security forces to augment City Fire protection.

13. Solid Waste Franchise: The City presently has an exclusive franchise agreement with Sani-Pac Oregon Ltd. for the provision of said waste collection. Developer agrees to abide by requirements of this franchise agreement. City agrees to work with Developer and Sani-Pac to insure that such collection fees are consistent and competitive with collection fees charged other businesses within the City of Springfield.

14. Non-Assignment: Developer shall not assign its rights and responsibilities under this Agreement without the express written consent of City: Provided however, by execution of this Agreement, City provides its consent to assignment of Developer's rights and responsibilities under this Agreement to a limited partnership composed of General Growth Companies and/or affiliated entities and/or its principals. The requirements of this paragraph shall terminate upon substantial completion of the shopping mall as described in paragraph 4.(b). Subject to the consent of the City, which consent shall not be unreasonably withheld, Developer may assign its rights and responsibilities under this Agreement after its full completion of Phase I, referred to in Paragraph 6.

15. Exhibits: All exhibits referred to or attached to this Agreement are hereby incorporated into and made a part hereof.

16. Additional Real Property Acquisition: Additional real property may be owned or acquired by Developer within the Gateway area. If acceptable to the City, the Developer may include such additional real property in the terms and conditions of this Agreement, except that nothing herein shall impair the effect of the

Springfield Development Code. With respect to such property, City and Developer shall negotiate cost sharing of additional public improvements in conformance with requirements of Springfield Development Code.

17. Zoning and Land Development:

- (a) City represents that the use of the property described in Exhibit A for a proposed regional shopping mall is in accordance with Article 18, City of Springfield Development Code, "Community Commercial District". The Metropolitan Area General Plan designates the site as commercial. The property is planned and zoned for the intended use.
- (b) Unless modified or excepted by the Site Plan Review Development Agreement, Planning Director, or Planning Commission, Developer agrees to comply with all applicable City of Springfield zoning, land development, sign and development review regulations, and criteria for approval. Such modification or exceptions shall be in writing.
- (c) Developer agrees to establish appropriate protective covenants, architectural site design, and review standards for the development.
- (d) Insofar as is practical or otherwise agreed by City, all utilities will be underground.
- (e) Unless modified or excepted by the Building Official or the Fire Marshall, Developer agrees to comply with all applicable building safety, and fire and life safety codes. Such modifications or exceptions shall be in writing.
- (f) Developer will provide a public transit facility on site to be arranged with Lane Transit District and subject to mutual agreement between the District and the Developer.

18. Notices: All notices required or permitted by this Agreement shall be in writing and may be delivered in person to any party or may be sent by certified mail, postage prepaid, return receipt requested and addressed in the case of the City to:

Attn: Greg Mott
City of Springfield
225 North 5th Street
Springfield, Oregon 97477

and in the case of the Developer to:

Gateway Mall Limited Partnership
Attn: John Bucksbaum
15821 Ventura Blvd., Suite 525
Encino, California 91436

cc: President
General Growth Companies
P.O. Box 1536
Des Moines, Iowa 50309

19. Modifications: Any modifications to this Agreement shall be made in writing executed by both parties. The parties recognize that circumstances may change and that it may be in the interests of both parties that the Agreement be amended from time to time. For this reason, each of the parties will consider changes which may be proposed by the other during the term of this Agreement. In the case of the City, the City Manager may approve and execute minor changes to this Agreement. The City Manager shall determine in his discretion, what constitutes a minor change. Major changes must be approved by the City Council and executed by its appropriate officers.

20. No Partnership: Neither anything in this Agreement contained nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Agreement.

21. Non-Waiver of Government Rights: Subject to the terms and conditions of this Agreement, by making this Agreement City is specifically not obligating itself, or any other governmental or regulating agency with respect to any discretionary action relating to development or operation of the improvements to be constructed on the land, including, but not limited to, rezonings, variances, environmental clearances or any other governmental agency approvals which are or may be required.

22. Farm Deferral: Developer shall pay the Lane County Department of Assessment and Taxation all anticipated real property taxes which may arise under Oregon law as a result of the planned diversion of the real property described in Exhibit A from Farm use. Such payment shall be in full upon receipt of tax statement from Lane County, Oregon, and in accordance with ORS 308.395(4) and ORS 311.370.

23. Default by Developer: A default shall occur if Developer shall breach any of the provisions of this Agreement whether by action or inaction, and such breach shall continue and not be remedied within sixty (60) days after the City shall have given notice specifying the breach or in the case of a breach which cannot with due diligence be cured within a period of sixty (60) days, if the Developer shall not within such sixty (60) day period commence the cure of the breach and thereafter diligently prosecute to completion such cure within a reasonable time after the notice from the other party. A default also shall occur if Developer shall have made any assignment for the benefit of creditors, or shall have become adjudicated a bankrupt, or shall have had a

receiver, trustee or creditor's committee appointed over it. Developer shall not be deemed to be in default hereunder for failure to pay any tax, assessment, lien or other charge if Developer in good faith is contesting the same and, if necessary to avoid foreclosure, has furnished an appropriate bond or other undertaking to assure payment in the event Developer's contest is unsuccessful.

To the extent that any default of the Developer is specifically anticipated by the "Waiver, Consent to Assessment, Agreement to Pay Certain Improvement Costs, and Agreement for Provision of Surety" the provisions of that document shall apply, including the right of the City to immediately draw to the fullest extent upon the surety provided under that document.

24. City's Remedies: In addition to specific remedies contained in this Agreement, in the event of Developer's default, the City shall have the right to cure such default. In the event City cures such default, City may make demand upon Developer for reimbursement of all reasonable costs associated with such cure. To the extent that City's remedies for default by Developer are anticipated by the "Waiver, Consent to Assessment, Agreement to Pay Certain Improvement Costs, and Agreement for Provision of Surety" that document shall apply.

25. Nonexclusive Remedies: The rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, except where otherwise indicated, and shall be in addition to and cumulative with any and all rights otherwise available at law or in equity. The exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party, including, without limitation the right to compel specific performance.

26. Discrimination: The Developer, for itself and its successor and assigns, agrees that during the construction of the improvements provided for in this Agreement, the Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin.

27. Arbitration: It is the intent of both parties to resolve disputes by arbitration. Such arbitration shall be conducted by one arbitrator appointed by the presiding judge of the Lane County Circuit Court. The decision of the arbitrator shall be final and binding on the parties. Judgment may be entered on the award and fully enforceable by any court having jurisdiction thereof. The arbitration shall be completed by no later than thirty (30) days from the date on which it is commenced. Except as otherwise provided herein, the rules of the American Arbitration Association shall control. The arbitrator shall determine the prevailing party in

any such arbitration and shall award such prevailing party all of its costs including costs of experts and attorney's fees incurred in connection with arbitration.

10-4-88
Date

CITY OF SPRINGFIELD

Ronald P. LeBlanc
Ronald P. LeBlanc, City Manager

9/28/88
Date

GATEWAY MAIL LIMITED PARTNERSHIP,
a South Dakota Partnership
By: General Growth Partners, Inc.,
general partner

John B. [Signature]
Vice President

Alan Winner
Asst Secretary